

Mail Stop Interference  
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Paper 26  
Filed: June 4, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Institut National de la Recherche Agronomique,  
Junior Party  
(Application 10/613,053  
Inventors : Jun Imamura, Hideya Fujimoto, Ritsuko Yanagidate,  
Nobuya Koizuka, Takako Sakai and Takahiko Hayakawa),

v.

BASF Plant Science GMBH , McGill University, and  
DNA Landmarks, Inc.,  
Senior Party  
(Patent 7,314,971  
Inventors: Fang-Ming Lai, Charles Dendy, Natasa Formanova,  
Gregory G. Brown, Benoit S. Landry, Wing Cheung,  
Hua Jin and Martin LaForest).

Patent Interference No. 105,682 (RES)  
(Technology Center 1600)

**Redeclaration**

1       The parties by telephone and e-mail requested a telephone conference  
2       to clarify the notice of Redclaration entered May 19, 2009 (Paper 24). The  
3       parties raised a question relating to the designation of Agronomique's  
4       Claims 101 and 104 as not corresponding to the count. The matter has been  
5       reviewed and Agronomique's Claims 54 and 103 should have been so  
6       designated rather than Claims 101 and 104. This interference is redeclared

1 with Agronomique's Claims 54 and 103 designated as not corresponding to  
2 the Count. In view of this redeclaration, a telephone conference is  
3 unnecessary.

4 **Identification and order of the parties**

5 **Junior Party**

6 Named inventors: Jun Imamura  
7 Hideya Fujimoto  
8 Ritsuko Yanagidate  
9 Nobuya Koizuka  
10 Takako Sakai  
11 Takahiko Hayakawa

12 Involved Application: 10/613,053 filed July 7, 2003

13 Title: Protein Involved in Restoration of Cytoplasmic  
14 Male Sterility to Fertility and  
15 Gene Encoding the Protein and Gene

16 Assignee: Institut National de la Recherche Agronomique

17 **Senior Party**

18 Named Inventors: Gregory G. Brown  
19 Charles Dendy  
20 Benoit S. Landry  
21 Wing Cheung  
22 Hua Jin  
23 Fang-Ming Lai  
24 Natasa Formanova  
25 Martin LaForest

26 Involved Patent: 7,314,971 issued from Application  
27 10/345,072 filed January 15, 2003

28 Title: Nuclear Fertility Restorer Genes and  
29 Methods of use in Plants

30 Assignees of Record: BASF Plant Science GMBH  
31 McGill University  
32 DNA Landmarks, Inc.

1 **Count, claims and benefit of the parties**

2 **Count 1**

3 An isolated nucleic acid which encodes a protein that restores fertility  
4 to cytoplasmic male sterile plants, the nucleic acid comprising (1) Seq. ID  
5 No: 2 of Application 10/613,053 or (2) nucleotides 164,311 to 174,022 of  
6 Seq. ID No: 87 of Patent 7,314,971, the protein comprising (1) amino acids  
7 1 to 687 of Seq. ID No: 3 of Application 10/613,053 or (2) the sequence of  
8 amino acids 1 to 687 of Seq. ID No: 179 of Patent 7,314,971.

9 The claims of the parties:

10 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41,  
11 43, 44, 47, 53, 54, 59, 63, 64,  
12 73-106

13 Patent 7,314,971: Claims: 1-18

14 The claims of the parties which correspond to Count 1:

15 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41,  
16 43, 44, 47, 53, 59, 63, 64,  
17 73-100, 102, 105, 106

18 Patent 7,314,971: Claims: 1-18

19 The claims of the parties which do not correspond to Count 1, and, therefore,  
20 are not involved in the interference:

21 Application 10/613,053: Claims: 54, 103

22 Patent 7,314,971: Claims: None

23 The parties are accorded the following benefit for Count 1:

24 Application 10/613,053: None

25 Patent 7,314,971: None

1. A telephone conference call to discuss this interference as set in Paper
- 2 24 remains scheduled for **4:00 p.m. on June 29, 2008** (the Board will
- 3 initiate the call).

/Richard E. Schafer/  
Administrative Patent Judge

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